

UNITED STATES DISTRICT COURT  
Southern District of New York

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STARLIGHT MARITIME LTD.,      :
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:                               : 08-CIV-5542 (GBD)
Plaintiff,                   :
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:                               :
-against-                   :
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:                               :
PRODPROGRAMMA IMPULS LTD.,    :
:
:                               :
Defendant.                   :
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:                               :
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**DEFENDANT PRODPROGRAMMA IMPULS LTD.'S MEMORANDUM  
OF LAW IN SUPPORT OF MOTION TO COMPEL ARBITRATION  
AND APPLICATION FOR STAY OF ACTION PENDING ARBITRATION**

COOPER, BROWN & BEHRLE, P.C.  
331 Madison Avenue, 2nd Floor  
New York, New York 10017  
Telephone: (212)957-9000  
Facsimile: (212)843-9191  
Email: cbblaw@aol.com

Galland Kharasch Greenberg  
Fellman & Swirsky, PC  
1054 Thirty-First Street, NW  
Washington, DC 20007  
Telephone: (202)342-5200  
Facsimile: (202)342-5219  
Email: dmonroe@gkglaw.com

Attorneys for Defendant  
Prodprogramma Impuls Ltd.

Of counsel:

Sandra Gale Behrle, Esq.  
David K. Monroe, Esq.

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**Foreword**

This action involves a dispute arising in connection with a charter agreement (hereinafter, "Charter Party") between Plaintiff Starlight Maritime Ltd. ("Starlight") and Defendant Prodprogramma Impuls Ltd. ("Prodprogramma") relating to the transportation of rice from Thailand to Russia. The Charter Party requires that disputes arising under the Charter Party be resolved through arbitration in Moscow under Russian law. See, Clause 31 of the Charter Party annexed to the Declaration of Sandra Gale Behrle, dated July 24, 2008, submitted herewith. Starlight commenced this action to obtain a maritime attachment and garnishment pursuant to Rule B of the Supplemental Rules for Admiralty or Maritime Claims, but acknowledges in its Verified Complaint that the underlying dispute between the parties must be arbitrated in Moscow under Russian law.<sup>1</sup> See Verified Complaint at ¶ 12. To date, however, Defendant Prodprogramma has received no notice or demand regarding arbitration and is unaware of any actions taken by Plaintiff Starlight to commence arbitration in Moscow as required by the Charter Party.

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<sup>1</sup> Plaintiff Starlight attached a portion of an unrelated wire transfer from Defendant Prodprogramma to a supplier in Thailand as it was passing through an intermediary bank located in New York. Defendant Prodprogramma believes that the garnishment of the wire transfer was improper, but will address its concerns regarding that issue separately.

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**Discussion**

Pursuant to the Federal Arbitration Act, 9 U.S.C. § 1, *et seq.*, this Court has the authority to compel arbitration and to stay proceedings in this action until the arbitration is complete. See 9 U.S.C. § 8 (court has authority to compel arbitration) and § 3 (court has authority to stay action pending arbitration). A motion to compel arbitration and for a stay of litigation should be granted where (1) there is an arbitration clause binding on the parties, and (2) the dispute sought to be arbitrated falls within the arbitration clause. See, e.g., *Ibeto Petro. Ind. v. M/T BEFEN*, 412 F. Supp. 2d 285 (S.D.N.Y. 2005), modified in part on other grounds, 475 F.3d 56 (2d Cir. 2007). There is no dispute in this case that the dispute that is the subject of the Verified Complaint is subject to a written arbitration clause requiring arbitration in Russia. See Verified Complaint at ¶ 12. Indeed, the applicable arbitration clause provides, "all disputes to be settled at Maritime Arbitration Court of Chamber and Industry, Moscow, under Russian law." Clause 31. Given the federal policy favoring arbitration embodying the Federal Arbitration Act, this Court should issue an order directing Plaintiff Starlight to promptly commence arbitration proceedings in Russia and staying this proceeding pending the resolution of the arbitration in Russia. See *Ibeto*, 412 F. Supp. 2d at 291-292.

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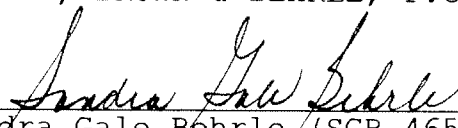
**Conclusion**

For all of the foregoing reasons, Defendant Prodprogramma Impuls Ltd., respectfully requests that its Motion to Compel Arbitration and Stay of Proceedings Pending Completion of said Arbitration be granted, and such other and further relief as to the Court seems just and proper.

Dated: New York, New York  
July 24, 2008

Respectfully submitted,

COOPER, BROWN & BEHRLE, P.C.

By:   
Sandra Gale Behrle (SGB 4652)  
331 Madison Avenue, 2nd Floor  
New York, New York 10017  
Telephone: (212) 957-9000  
Facsimile: (212) 843-9191  
Email: cbblaw@aol.com

David K. Monroe  
Galland Kharasch Greenberg  
Fellman & Swirsky, P.C.  
1054 Thirty-First Street, NW  
Washington, DC 20007  
Telephone: (202) 342-5200  
Facsimile: (202) 342-5219  
Email: dmonroe@gkglaw.com

Attorneys for Defendant  
Prodprogramma Impuls Ltd.

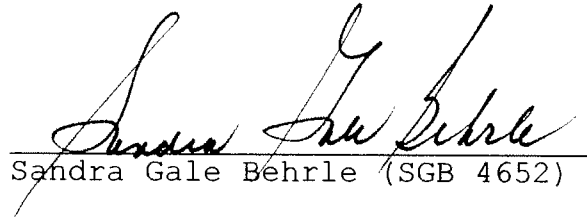
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CERTIFICATE OF SERVICE

I do hereby certify that I have delivered a true and correct copy of the foregoing document to the following addressee at the address stated by depositing same in the United States mail, first class postage prepaid, this 24 day of July 2008:

Claurisse Campanale Orozco  
Thomas L. Tisdale  
TISDALE LAW OFFICES LLC  
11 West 42<sup>nd</sup> Street - Suite 900  
New York, NY 10036  
Telephone: 212.354.0025  
Facsimile: 212.869.0067  
Email: [corozco@tisdale-law.com](mailto:corozco@tisdale-law.com)  
[ttisdale@tisdale-law.com](mailto:ttisdale@tisdale-law.com)

Attorneys for Plaintiff  
Starlight Maritime Ltd.

  
Sandra Gale Behrle (SGB 4652)